IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.NO.701 OF 2003
DATED 14-12-2006

BETWEEN
Mr.V.Sivaramakrishna and 4 others

.. PETITIONERS

And

K.Satyanarayana and 4 others.

…RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.701 OF 2003

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring

the order dated 2.8.2002 passed by the 5th respondent –A.P. Co-operative Tribunal, Hyderabad in CTA No.160 of 2000 setting aside the award in ARC No.3 of 1998 dated 10.3.2002 passed by the 2nd respondent – Joint Registrar & District Cooperative Officer (Urban), Hyderabad as arbitrary and illegal.

It appears that the petitioners are the members of the 4th respondent - Voltas Employee's Cooperative House Building Society Limited, Sanathnagar, Hyderabad. According to the petitioners, they are the promotee members and as per the resolution passed by the society, they have been allotted with certain plots subject to approval of the lay out. Aggrieved by the same, the 1st respondent herein raised a dispute before the Arbitrator in ARC No.3 of 1998. However, the Arbitrator, after hearing both the parties, passed an award dismissing the claim petition. Aggrieved by the same, the 1st respondent herein has carried the matter in appeal under Section 76 of the A.P.Cooperative Societies Act, 1964 (for short 'the Act') before the 5th respondent-Tribunal, which, after an elaborate consideration of the award passed by the Arbitrator and also on reappreciating the material placed before it, came to the conclusion that the resolution passed by the society is not a valid one and therefore the allotment of plots cannot be said to be correct. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioners strenuously contended that in view of the judgment of this Court in Writ Appeal No.1136 of 2003 dated 10.7.2003, it cannot be said that there was no valid committee available for the purpose of passing the resolution allotting the plots, subject to approval of the lay out. Even otherwise, the petitioners are entitled for the allotment of the plots automatically, being the promotee

members, after the approval of the lay out. Therefore, the resolution passed by the society allotting the plots to the founder members, subject to approval of the layout, cannot be said to be either arbitrary or illegal. Thus, he seeks to set aside the impugned order.

Mr.M.V.Durga Prasad, learned counsel for the 1st respondent strenuously contended that all the petitioners herein are not the promotee members and that they withdrew their deposits with the society and therefore, they are not automatically entitled for allotment of the plots. He further submits that even if the petitioners are entitled for the allotment of the plots, they have to wait for their turn, if any, as per the resolution passed by the society after the lay out is approved and as per the bye-laws, if they are eligible.

It is an admitted fact that the resolution was passed without there being an approved layout, as required under the bye-laws. If that be so, there was no necessity for convening the meeting and passing a resolution allotting certain plots in favour of the petitioners herein. In view of this, the question as to whether there was a valid committee or not for passing the resolution need not be gone into. Therefore, I am of the considered opinion that the appellate Tribunal has not committed any error in passing the impugned orders warranting interference of this Court under Article 226 of the Constitution of India.

The writ petition is devoid of merits and it is accordingly dismissed.

However, this order will not preclude the General Body, after the lay out is sanctioned, from considering the allotment of plots in favour of the members of the society by taking into consideration their seniority as per the byelaws concerning allotment of plots.

C.V.RAMULU,J

Dated 14.12.2006
msv